

# EXHIBIT “H”

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF NEW YORK

3 \_\_\_\_\_

4 SIDNEY MANES, administrator of the estate of  
5 HECTOR RIVAS,  
6 Plaintiff,

7 v. Case No.:

8 ONONDAGA COUNTY, CITY OF SYRACUSE, 5:19-cv-00844-BKS-TWD  
9 WILLIAM FITZPATRICK, DR. ERIK  
10 MITCHELL, AND "JOHN DOES 1-10",  
11 Defendants.

12 \_\_\_\_\_

13 DEPOSITION

14 \_\_\_\_\_

15

16 WITNESS: PETER TYNAN  
17 DATE: Wednesday, December 20, 2023  
18 START TIME: 12:14 p.m., ET  
19 END TIME: 1:21 p.m., ET  
20 REMOTE LOCATION: Remote Legal platform  
21 REPORTER: Zack Shoup, CER-15887  
22 JOB NO.: 21976

23

24

25

A P P E A R A N C E S

RICKNER PLLC

14 Wall Street, Suite 1603

New York, New York 10005

By: ROBERT RICKNER, ESQUIRE

rob@ricknerpllc.com

Appearing for Plaintiff

LAW OFFICES OF ROBERT F. JULIAN

2037 Genesee Street, Suite 2

Utica, New York 13501

By: ROBERT JULIAN, ESQUIRE

Appearing for Defendants Mitchell and Fitzpatrick

THE LAW OFFICE OF MARK A. VENTRONE

214 North State Street

Syracuse, New York 13203

By: MARK VENTRONE, ESQUIRE

info@mventronelaw.com

Appearing for Defendant Onondaga County

1 INDEX OF TESTIMONY

2

3 EXAMINATION OF PETER TYNAN: PAGE

4 By Mr. Rickner 9

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



1 INDEX OF EXHIBITS

2 (available for download)

3

4	EXHIBIT	DESCRIPTION	PAGE
5	35	Mitchell Note	26

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

FEDERAL STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties that the presence of the Referee be waived;

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved until the time of trial;

IT IS FURTHER STIPULATED AND AGREED that this deposition may be utilized for all purposes as provided by the Federal Rules of Civil Procedure;

AND FURTHER STIPULATED AND AGREED that all rights provided to all parties by the Federal Rules of Civil Procedure shall not be deemed waived and the appropriate sections of the Federal Rules of Civil Procedure shall be controlling with respect thereto.

1 FEDERAL REMOTE STIPULATIONS

2

3 IT IS HEREBY STIPULATED, by and between the  
4 attorneys of record for all parties to the above-  
5 entitled action, that:

6 Pursuant to Rule 30(b)(4) of the Federal Rules  
7 of Civil Procedure, this deposition will be conducted by  
8 remote videoconference with the oath being administered  
9 remotely and a court reporter creating an accurate  
10 written record; that, if necessary, the parties agree  
11 that each witness can be identified with picture  
12 identification;

13 No attorney, nor any party or witness, shall  
14 capture any still photographs, nor record, by video or  
15 audio, any part of these deposition proceedings;

16 Each attorney agrees to instruct their witness  
17 that there is to be no communication with anyone outside  
18 of the identified and participating group, by chat,  
19 text, email, or other means during the deposition;

20 There shall be no other person in the room  
21 with the witness during their deposition;

22 Any phone or electronic device in the room  
23 with a witness shall be identified and not read,  
24 referred to, or otherwise used during the witness'  
25 deposition, unless agreed to by all counsel on record.

1 P R O C E E D I N G S

2 THE REPORTER: Good afternoon. We are  
3 now on the record. Today's date is Wednesday, December  
4 20th, 2023 and the time is approximately 12:14 p.m.,  
5 Eastern Time.

6 My name is Zack Shoup and I'm the officer  
7 designated by Remote Legal, 11 Broadway, Suite 456, New  
8 York, New York, to take the record of this proceeding.

9 This is the deposition of Peter Tynan  
10 taken in the matter of Manes, versus Onondaga County,  
11 Case Number 5:19-cv-00844-BKS-TWD, filed in the United  
12 States District Court, Northern District of New York.

13 Would all Counsel please identify  
14 themselves for the record starting with the noticing  
15 attorney, and state who they represent?

16 MR. RICKNER: Hello. Rob Rickner,  
17 Rickner, PLLC. I represent the plaintiff. Good  
18 afternoon.

19 MR. JULIAN: Robert Julian. I represent  
20 Defendants Fitzpatrick and Mitchell.

21 MR. VENTRONE: Mark Ventrone for the  
22 County of Onondaga.

23 THE REPORTER: Thank you.

24 This deposition is being taken remotely  
25 on behalf of the plaintiff and is being conducted

1 pursuant to the procedural rules and laws of the state  
2 which governs this matter.

3 As such, all parties agree to this means  
4 of capturing the official record, which may include  
5 recording by audio and/or audiovisual means, and agree  
6 not to oppose admission of this proceeding on the basis  
7 of the personnel or method by which the testimony in  
8 this proceeding was captured.

9 Do all parties so stipulate?

10 MR. RICKNER: Plaintiff so stipulates.

11 MR. JULIAN: Yes.

12 MR. VENTRONE: Yes. Defense does.

13 THE REPORTER: Thank you.

14 And I will now swear in the witness.

15 Mr. Tynan, could you please state and  
16 spell your full name for the record?

17 MR. TYNAN: Sure. Peter D. Tynan, T-Y-N-  
18 A-N.

19 THE REPORTER: Sorry. Hold on a moment.  
20 Did you spell your name?

21 MR. TYNAN: Yes. T-Y-N-A-N.

22 THE REPORTER: Thank you. Could you  
23 please raise your right hand?

24 Do you swear or affirm that the testimony  
25 you shall give today in this proceeding will be the



1 truth, the whole truth, and nothing but the truth?

2 MR. TYNAN: I do.

3 WHEREUPON,

4 P E T E R T Y N A N,

5 having been called as a witness, being duly sworn by the

6 notary public present, testified as follows:

7 THE REPORTER: Thank you. You may put  
8 your hand down.

9 The witness has been sworn and Counsel,  
10 you may begin.

11 EXAMINATION

12 BY MR. RICKNER:

13 Q What is your current rank or what rank did you  
14 retire on, Mr. Tynan?

15 A Sergeant of detectives.

16 Q Okay. I guess I'll try to call you Sergeant  
17 Tynan, but if I don't, my apologies.

18 A Call me Peter or Tynan -- whatever. That's  
19 fine.

20 Q Excellent. I do try to be a bit formal, just  
21 for the record, but -- have you ever had your deposition  
22 taken before?

23 A Yes.

24 Q How many times?

25 A Like, testify in court and depositions and

1 everything, or?

2 Q No. No. I actually mean just a deposition,  
3 like a civil matter. Effectively, what we're doing  
4 today.

5 A Just a few times.

6 Q Okay. Were any of those with respect to your  
7 work as a law enforcement officer?

8 A I believe so. Yes.

9 Q Okay. And you may remember these ground rules  
10 from your prior deposition, or you may have been  
11 instructed by Mr. Julian. But this is just to make sure  
12 that we get the best transcript possible.

13 So the first, and you're doing a great job of  
14 this -- I ask these long, rambling questions. You may  
15 know exactly where I'm going, but please wait until I  
16 finish my question before jumping in with an answer.  
17 Can you do that for me?

18 A Sure.

19 Q Great. You're doing a good job of answering  
20 verbally, but even though we're on camera, you can't do  
21 nods of the head or hand gestures. You need to actually  
22 say verbally what your response is so the court reporter  
23 can take it down. Can you do that for me?

24 A Yes, sir.

25 Q If you ask a -- if -- withdrawn.

1           If you answer a question, I'm going to assume  
2   you understood it. So please, if anything I say  
3   confuses you, tell me and I'll rephrase. Can you do  
4   that for me?

5           A     Yes, sir.

6           Q     You've taken an oath, and even though you're  
7   sitting in a conference room, it's the same rules as  
8   though you're in court, meaning you have to tell the  
9   truth, the whole truth, and nothing but the truth. Can  
10   you do that for me?

11          A     Yes, sir.

12          Q     You may want to take a break, and that's  
13   absolutely fine. Just understand that if you take a  
14   break, you have to answer the pending question first.  
15   Do you understand?

16          A     Yes, sir.

17          Q     You will be given the chance, if you so  
18   choose, to review the transcript and make any  
19   corrections. However, please note that if you do make  
20   any changes to the transcript, I can comment on it at  
21   trial. Do you understand?

22          A     Sure. Yes, sir.

23          Q     Don't be offended by this question. We ask  
24   everyone. Do you have any medical reason why you  
25   couldn't give full and complete testimony besides the



1 ordinary passage of time?

2 A Do I have any reason -- what? What'd you say?

3 Q Is there any medical reason why you couldn't  
4 give full and complete testimony today, like you hit  
5 your head?

6 A No.

7 Q Okay. I had a client -- I had a witness once  
8 who hit his head, and he said, "You know what? I don't  
9 remember anything at the end of the --" so I got to  
10 check.

11 Are you represented today?

12 A Yes, sir.

13 Q Okay. Who is your attorney?

14 A Are you my attorney? No. I'm not  
15 represented. I'm just here because I was asked by Mr.  
16 Julian to be here. I'm not represented yet.

17 Q Okay. Yeah. No. Understood. That's just  
18 what I wanted to clear up. Now, did you do anything to  
19 prepare for this deposition?

20 A Yes, sir.

21 Q What did you do to prepare?

22 A I met with Mr. Julian yesterday.

23 Q Okay. How long did you meet?

24 A Half hour, hour, yesterday in his office.

25 Q Okay. Did you review any documents?

1 A Yes, sir.

2 Q What documents did you review?

3 A Some exhibits from July and November in  
4 regards to this matter.

5 Q Okay. And did you learn anything about the  
6 case from Mr. Julian?

7 A Just that apparently the -- some relatives of  
8 Hector Rivas were bringing action against the county  
9 for -- for something to do with the case or the  
10 prosecution or something.

11 Q And prior to that conversation with Mr.  
12 Julian, did you know anything about this pending  
13 lawsuit?

14 A I think I heard about it. I heard that --  
15 that Rivas died in prison, and at some point, I think I  
16 heard about this, but that's all -- that's about it.

17 Q Did you hear that his conviction had been  
18 overturned?

19 A I think -- I think I heard that -- I may have,  
20 because I know that when somebody gets convicted, I  
21 think when they're in prison and if there's still a --  
22 some kind of an appeal or something, a lot of times it  
23 just gets dismissed or something. That's all I know.

24 Q Understood. Now, I just want to go a little  
25 bit through your background. When did -- where did you

1 start your career in law enforcement?

2 A Syracuse Police Department.

3 Q And how many years were you with the Syracuse  
4 Police Department?

5 A 20 years.

6 Q And did you have any particular -- well,  
7 withdrawn.

8 What year did you start?

9 A 1972.

10 Q Would it be correct to say then that you  
11 stopped in 1992?

12 A Actually, I think it was January, February  
13 1993, but yes. Just a few months past that 20-year  
14 mark.

15 Q Okay. When you were at the Syracuse Police  
16 Department, I assume you started as a patrol officer or  
17 something like that, but after that period as a patrol  
18 officer, did you have any particular station or role?

19 A Yes. Most -- almost entirety of my career was  
20 in criminal investigation division, or CID, as we call  
21 it.

22 Q Now, does the CID cover robberies, murders, or  
23 is homicide separated?

24 A It's not separated. It's any major crime.  
25 Yes.

1 Q Okay. And so that would include homicides?

2 A Yes, sir.

3 Q Okay. During your time as a homicide -- well,  
4 withdrawn.

5 During your time at the CID, did you have any  
6 interactions with Erik Mitchell?

7 A Yes, sir.

8 Q How often do you think that you interacted  
9 with Erik Mitchell?

10 A While he was the medical examiner, at least  
11 once a month, I would say, at least.

12 Q Okay. And what types of -- withdrawn.

13 As you sit here today, are you aware that  
14 there have been, you know, certain allegations about  
15 Erik Mitchell improperly disposing body parts,  
16 mismanaging his office, and things of that nature?

17 A Yes, sir.

18 Q When do you think you first became aware of  
19 those types of allegations?

20 A Well, I think it was summer of '90 -- '92 or  
21 '93.

22 Q Would this have been when you were working at  
23 the DA's office?

24 A At that time, I was at the DA's office. Yes,  
25 sir.

1 Q Okay. And did you move smoothly between the  
2 Syracuse Police Department and the DA's office?

3 A I didn't understand you.

4 Q That wasn't a very good question. Thank you.  
5 What I'm asking is that -- did you go straight from the  
6 Syracuse Police Department to the DA's office?

7 A I did.

8 Q And was there a particular reason that you  
9 went to the DA's office?

10 A Yes, sir.

11 Q What was that reason?

12 A I was -- I was offered the position of chief  
13 investigator.

14 Q Were you offered that position by William  
15 Fitzpatrick, the DA?

16 A Yes, sir.

17 Q Had you known him prior to that?

18 A Yes, sir.

19 Q And did you work on investigations together?

20 A Yes, sir.

21 Q Now, going back to your time working at CID,  
22 did you have any particular impressions of Erik Mitchell  
23 during that time period?

24 A Yes, sir.

25 Q And what was your impression of Erik Mitchell?



1           A     Well, I thought he was brilliant. He was a  
2     very likable guy. He is -- he had a good sense of  
3     humor. He was a little quirky, but as far as his -- I  
4     consider his expertise in his position, and he was very  
5     helpful, and he would always help you out no matter --  
6     no matter what. Yes.

7           Q     Understood. When you say "help you out," what  
8     do you mean?

9           A     Well, I was a -- I used to be an instructor at  
10    the police academy. I used to teach death  
11    investigations, and I would discuss that with him. And  
12    you know, he would -- sometimes he would give me a  
13    couple of slides to show in class and discuss some of  
14    the death investigations with me, like a lot of -- any  
15    unattended death. That's why.

16          Q     And an unattended death means that you weren't  
17    aware of somebody being present at the time that they  
18    died?

19          A     Right. And we were unsure of -- anything  
20    other than a natural death, you know, could it be  
21    accidental, suicide, homicide, so forth.

22          Q     Did you have any role in investigating the  
23    Nanette Gordon case?

24          A     No, sir. But I'm aware of it. Yes.

25          Q     Okay. And did you have any role in

1 investigating the death of Valerie Hill?

2 A Yes, sir.

3 Q Okay. And I want to talk about the first  
4 investigation. That would have been in, what, 1986,  
5 1987?

6 A Yeah. I think it was 1987, but I'm not sure.

7 Q And what was your role in the investigation of  
8 the death of Valerie Hill in 1987?

9 A Not completely sure, but I remember that I was  
10 at the -- at the actual scene the day her body was  
11 discovered. I believe at that time also, I was sergeant  
12 of detectives, and I may have -- I think I might have  
13 directed some of the investigators in their roles that  
14 day. After that, you know, we -- lengthy follow up  
15 following wherever the investigation would take us.

16 Q Understood. And at any point while you were  
17 at the scene where Valerie Hill died, did Erik Mitchell  
18 show up?

19 A I -- I -- somebody from the medical examiner's  
20 office would have shown up. Whether it was him or not,  
21 I'm not certain.

22 Q Okay. Do you know how long that was after the  
23 body was found?

24 A No, sir.

25 Q During the course of the investigation of the

1 Valerie Hill murder, were there any suspects?

2 A Certainly anytime a woman is killed in this  
3 manner, certainly statistically and intuitively, you  
4 have to consider that it was a boyfriend or an ex-  
5 boyfriend. Yes. So I would say Hector Rivas was  
6 certainly somebody that we were -- we were looking at.  
7 Yes.

8 Q Okay.

9 A I know that --

10 Q Now --

11 A -- he is a suspect.

12 Q Right. Were there any other suspects?

13 A No, sir.

14 Q You remember that Hector Rivas was not  
15 prosecuted until sometime after 1987; is that fair to  
16 say?

17 A Yes, sir.

18 Q Okay. Do you know why Hector Rivas was not  
19 prosecuted in 1987 or 1988?

20 A My opinion?

21 Q Yes.

22 A In my opinion, there was enough to arrest him  
23 based on our police investigation. The district  
24 attorney's office at the time did not want him arrested  
25 and forced prosecution because they felt that there



1 might not be -- at that time, there might not be enough  
2 evidence, or you know, totality of the evidence to  
3 convict him. And that was the -- that was the main  
4 point that -- not that there wasn't enough to arrest  
5 him. There wasn't enough to convict him.

6 Q Right. Now, did Hector Rivas have, I guess  
7 what you would call an alibi?

8 A At some point, I remember that he presented to  
9 us that he was drinking at a bar on the west end, and I  
10 also remember that he had a Polaroid photo of him with  
11 some other people at this bar.

12 Q Okay. At any point during the investigation,  
13 did Dr. Mitchell make a determination as to when he  
14 thought Valerie Hill died with respect to the day that  
15 her body was found?

16 A It's -- I -- could you -- could you repeat  
17 that?

18 Q Yeah. Absolutely. Obviously, Valerie Hill  
19 died before you found the body, right?

20 A I'd say that's accurate.

21 Q And there is some question as to how long  
22 before her body was found she died, right?

23 A Yes, sir.

24 Q Okay. In the initial investigation in 1987,  
25 did Erik Mitchell ever express to you any conclusions

1 about when she may have died with respect to when her  
2 body was found?

3 A As I recall, he said that she died at least  
4 two days before her body was found.

5 Q Now, was the fact that Hector Rivas had a  
6 potential alibi for some of the days prior to when her  
7 body was found a factor in determining that he couldn't  
8 be prosecuted successfully for that murder?

9 A No. Not in -- not in my opinion. No.

10 Q Now, at any point -- withdrawn.

11 So, after you were recruited to the district  
12 attorney's office by DA Fitzpatrick, were you instructed  
13 to look through cold cases to try to get convictions?

14 A Yes. We -- we discussed cold cases. Yes,  
15 sir.

16 Q I'm asking a slightly different question. Did  
17 DA Fitzpatrick ask you to go look at some cold cases to  
18 see if they could possibly be prosecuted?

19 A Well, he didn't have to tell me to look. I'm  
20 the one that worked on the cold cases, so yes. I was  
21 very aware of them.

22 Q Okay, I guess, then, I should reframe my  
23 question. When you say you worked on cold cases, was  
24 that a particular assignment that you were provided at  
25 the district attorney's office?

1           A     No. Cold cases become cold cases when  
2     somebody -- the investigation kind of stops or is  
3     suspended because it -- and then it becomes cold. But I  
4     worked on the homicides from the day they happened, and  
5     so anytime after that, some period of time after that, I  
6     guess you could call it a cold case. But for almost 20  
7     years, I worked almost every single homicide that  
8     happened in Syracuse.

9           Q     Understood. So when you say when you were  
10    working on cold cases, you mean these were your own  
11    cases and they had gone cold?

12          A     Yes, sir.

13          Q     That is said --

14          A     And not only my cases, but if I didn't work on  
15    the case and I was aware of the case. Yes.

16          Q     Okay. So when you went to the district  
17    attorney's office, would it be correct to say that you,  
18    at least in your mind, had a list of cold cases that  
19    you're interested in reinvestigating?

20          A     Yes, sir.

21          Q     Did you discuss that with DA Fitzpatrick?

22          A     Yes.

23          Q     Okay. As a result of that discussion, did you  
24    bring DA Fitzpatrick some cold cases that you thought  
25    maybe could be prosecuted?

1           A       We discussed them. Yes, sir.

2           Q       Okay. But what I'm asking is that did you  
3       literally show up to DA Fitzpatrick's office with one or  
4       more cases and say, "These are cold cases that I think  
5       we need to reinvestigate and look into"?

6           A       Well, that's not exactly how it happened. We  
7       would discuss the case. We -- we would discuss cases,  
8       then whatever -- whatever case that we might have  
9       settled on, he said, "Well, why don't you start putting  
10      some of the reports together?" And that's how it would  
11      start.

12          Q       Okay. Well, I'm going to represent to you  
13      that DA Fitzpatrick testified that you brought the  
14      Hector Rivas case to him as a case that needed to be  
15      reinvestigated. Is that comport with your memory?

16          A       Yes. It's just what we just discussed. We  
17      discussed cold cases, and this was one of them, and once  
18      he agreed to take a look at it, then I started getting  
19      the reports together, and then after the reports, maybe  
20      any affidavits were around or maybe go to the evidence  
21      room to make sure all the evidence was there and  
22      available, you know, et cetera.

23          Q       Understood. Did DA Fitzpatrick work on the  
24      Valerie Hill case at the district attorney's office when  
25      the crime first occurred?



1           A     I'm pretty sure Bill Fitzpatrick wasn't even  
2     in the DA's office at the time.  He --

3           Q     So prior to -- I'm sorry.  Please continue.

4           A     He might have been there from, I think, '88 to  
5     '92, at least.  Yeah.

6           Q     With respect to the Valerie Hill murder, do  
7     you remember who first brought that case up in  
8     discussing reinvesting it?

9           A     Yeah.  It would have been me.  Yes.

10          Q     What about the Valerie Hill case made you  
11     think, "You know, this is one we need to reinvestigate"?

12          A     I -- could you repeat the question?  Because  
13     I'm trying to understand it.

14          Q     Fair enough.  Was there a particular reason  
15     that the Valerie Hill murder came to your mind as a cold  
16     case that needed to be looked into further?

17          A     Yes.

18          Q     What was it?

19          A     Well, it was a case where, you know, a woman  
20     was murdered savagely and he was a suspect and our  
21     investigation showed that, you know, in all probability  
22     he did it and there was probably enough for an arrest.  
23     And sometimes the, you know, the prior district attorney  
24     didn't feel there was enough for conviction.  That's why  
25     we wanted Bill Fitzpatrick to look at it, because he's a

1 different kind of prosecutor.

2 Q What do you mean by, "he's a different kind of  
3 prosecutor"?

4 A Well, he -- he prosecuted several cases that  
5 I'm aware of, that -- and I was with him -- that  
6 previous district attorneys did not feel there was  
7 enough to prosecute, and he took the reins on the cases  
8 and he followed them through.

9 Q Was there any additional evidence that you  
10 felt needed to be developed in order to successfully  
11 prosecute Hector Rivas as part of this reinvestigation?

12 A Not that I -- not that I can pinpoint right  
13 now. No.

14 Q During your reinvestigation, did you ever have  
15 any discussions with Erik Mitchell?

16 A All right. Can you ask that again then,  
17 please?

18 Q Okay. I want to make sure I get this correct.  
19 So at some point you begin reinvestigating the Valerie  
20 Hill murder and Hector Rivas as a suspect, right?

21 A Yes, sir.

22 Q About when was that?

23 A I'd say 1992, probably.

24 Q As part of that reinvestigation, did you talk  
25 to Erik Mitchell?

1           A     I don't believe so. No.

2           Q     As part of that reinvestigation, do you know  
3 if William Fitzpatrick spoke with Erik Mitchell?

4           A     I don't know. I think Erik Mitchell at some  
5 point was gone from the -- from the ME's office. That  
6 might -- I think that was '93, though, so. I'm sure  
7 that -- I'm sure that somebody must have talked to Erik  
8 Mitchell. Yes.

9           Q     I'm going to share an exhibit.

10                   THE REPORTER: Mr. Rickner, would you  
11 like this one marked?

12                   MR. RICKNER: Yes. Absolutely. What is  
13 it? 35?

14                   THE REPORTER: Believe we're on to 35.

15                   (Exhibit 35 marked for identification.)

16 BY MR. RICKNER:

17           Q     All right. Now, this is a note. It's Bates-  
18 stamped, I guess, 008955 in red on the bottom left.

19 First, Sergeant, is this your handwriting?

20           A     We can't see the exhibit.

21           Q     Really?

22                   MR. JULIAN: We can see the top part of  
23 it.

24                   MR. RICKNER: Okay. Let's see if this  
25 works.

1 MR. JULIAN: Yep.

2 BY MR. RICKNER:

3 Q Can you see the whole note now?

4 A Yes, sir.

5 Q Is this your handwriting?

6 A It looks like it is.

7 Q Okay. Is that your sort of first name  
8 signature, "Peter," at the bottom?

9 A I can't see it.

10 MR. JULIAN: Yeah. We still don't have  
11 the whole exhibit.

12 MR. RICKNER: How's this?

13 MR. JULIAN: We've got a parenthesis of  
14 "(Good)" but we still don't have any -- if there's  
15 anything below that.

16 MR. RICKNER: There is. You know what?  
17 I'm going to close this down and just have -- I was  
18 hoping that just because it was such a big exhibit, we  
19 might be able to do this on the screen. Let me have Ms.  
20 Herb (phonetic) handle this one, if we can get you a  
21 hard copy. Okay?

22 THE WITNESS: Okay.

23 MR. RICKNER: I'm also going to -- I'm  
24 just going to go off the record for two seconds and  
25 actually call her just to make sure --



1 THE REPORTER: I was going to ask, if  
2 we're trying to work out an exhibit thing, should we go  
3 off the record? I'll take us off.

4 MR. RICKNER: Yes, please. Thank you.

5 THE REPORTER: 12:43 p.m., Eastern Time.  
6 We're going off the record.

7 (Off the record.)

8 THE REPORTER: 12:47 p.m., Eastern Time.  
9 We are back on the record.

10 MR. RICKNER: Thank you.

11 BY MR. RICKNER:

12 Q Now, looking at this Exhibit 35, a copy of  
13 which you now have in hard copy in front of you, at the  
14 bottom, do you see the word "Peter"?

15 A Yes.

16 Q Is that your handwriting?

17 A I would say yes.

18 Q Okay. And just going up a little bit, there's  
19 an acronym "TOD." Does that mean time of death?

20 A I would say yes.

21 Q Okay. And does seeing this note refresh your  
22 recollection as to whether or not you spoke with Dr.  
23 Mitchell as part of the reinvestigation?

24 A I don't know how I -- where this information  
25 come from. I don't remember talking to him, but I may

1 have. I'm not saying I didn't, I mean.

2 Q Understood. I would say this. Based on your  
3 own practices as an investigator, does this note  
4 represent the kind of note that you would make following  
5 a conversation with a witness?

6 A No. Actually, I'd write a report on it, some  
7 kind of a memo or report so it can go in the file.

8 Q Well, looking at this note, do you believe  
9 that the information reflected in it came from a  
10 conversation with Dr. Mitchell?

11 (Pause.)

12 I'm sorry. Did I get a -- maybe the answer  
13 was clipped.

14 A Maybe the way you -- I don't know. Can you  
15 answer -- ask it again, please?

16 Q Yeah. Absolutely. I'm just saying is, do you  
17 believe that the information on this note came from Dr.  
18 Mitchell?

19 A I'm not certain. I could -- it could have.  
20 It says -- it says, "Regarding Dr. Mitchell." Does that  
21 mean -- it's about Dr. Mitchell, but I -- it could have  
22 come from Dr. Mitchell, could have come from somebody  
23 else in the ME's office, or -- I mean it says -- you  
24 know, the information sounds like it did come right from  
25 the medical examiner's office. And I didn't -- I

1 don't -- there's no date on the note either. I have no  
2 idea when this was.

3 Q Understood. Now, do you remember the time of  
4 death being an issue with respect to prosecuting Hector  
5 Rivas?

6 A The -- the issue of the time of death came up.  
7 Yes, sir.

8 Q Okay. And would it be correct to say that to  
9 successfully prosecute him, the time of death had to be  
10 before the period of time where Hector Rivas claimed to  
11 have an alibi?

12 A No. The -- as I recall, our investigation  
13 showed that she had talked to somebody on the phone on  
14 Friday and that she wasn't heard from since. So in my  
15 mind, the time of death could have been anytime after  
16 she wasn't heard from or -- seen or heard from.

17 Q Right. Would it be correct to say that Hector  
18 Rivas claimed to have an alibi for Saturday and Sunday?

19 A I don't remember about Sunday, but I do  
20 remember him saying -- it was something about being at  
21 the Coleman's bar up on the west end, and he had a  
22 picture of him with some of his friends. That, I do  
23 remember.

24 Q The note, "Pushes time of death limits further  
25 out," parentheses, "(Good.)" What do you understand

1 that to mean?

2 A Okay. Repeat the question. I just looked at  
3 the note again. Repeat the question, please.

4 Q The line, "Pushes time of death limits further  
5 out," parentheses, "(Good!!)" exclamation points, what  
6 does that mean?

7 A It means whatever the limits of time of death  
8 would be further out, which could -- in my mind, it  
9 means that any time to when she last talked to somebody.  
10 It pushes that time of death limit out.

11 Q Right. And by "Good," that means that is  
12 stronger evidence against Hector Rivas, right?

13 A I would -- I would interpret it that way, too.

14 Q So by Erik Mitchell pushing the time of death  
15 further out, it makes the case against Hector Rivas  
16 stronger; is that right?

17 MR. JULIAN: Form.

18 MR. VENTRONE: Yeah. I'll object to the  
19 form.

20 MR. RICKNER: You can answer.

21 THE WITNESS: I can answer -- what? What  
22 Dr. Mitchell said? Can you repeat the -- I don't  
23 understand the question how you're asking it, sir. I'm  
24 sorry.

25 MR. RICKNER: No. That's fine. I want



1 you to -- if you're confused, I want you to tell me.

2 What I'm saying is --

3 THE WITNESS: Well, I'm not -- I just

4 don't understand the question.

5 BY MR. RICKNER:

6 Q Would it be correct to say that if Dr.

7 Mitchell was able to push the time of death out, it

8 would make the case against Hector Rivas stronger?

9 MR. JULIAN: Objection.

10 THE WITNESS: Dr. Mitchell could only  
11 push the time of death out to the time that we knew she  
12 was alive.

13 BY MR. RICKNER:

14 Q Right. Yes. And by pushing it closer to  
15 Friday, the time she had last spoken to somebody, did  
16 that make the case against Hector Rivas stronger?

17 MR. JULIAN: Object to the form.

18 THE WITNESS: (Whispering.)

19 MR. RICKNER: You can answer, by the way,  
20 even if there's an objection.

21 THE WITNESS: Okay. I didn't know that.  
22 Well, you keep saying if he pushed it out, and I keep  
23 saying that he can only push it out to the time that we  
24 knew she was alive. And that's as far as you can push  
25 it. If there was a -- if there was an issue of the time

1 of death -- and I know there was controversy about  
2 something that -- was it -- was it two days or three  
3 days? But it was at least -- he said it was at least  
4 two days, that I recall.

5 BY MR. RICKNER:

6 Q Right. And by pushing it back three days to  
7 Friday or the morning of Saturday, that makes the case  
8 against Hector Rivas stronger; is that right?

9 MR. VENTRONE: Object to the form.

10 MR. JULIAN: Objection.

11 THE WITNESS: That -- it -- it made it --  
12 it made it more probable in my mind, based on what --  
13 nobody heard from or saw this woman again, after Friday.

14 BY MR. RICKNER:

15 Q And it also pushed the time of death to a  
16 point where Hector Rivas did not have this alibi in the  
17 bar; is that right?

18 MR. JULIAN: Object as to form.

19 THE WITNESS: I don't -- the -- the alibi  
20 that he presented, I think, was for Saturday night. I  
21 don't know if -- I don't recall right now what his alibi  
22 for Friday was or -- or Sunday.

23 BY MR. RICKNER:

24 Q Well, I don't believe he had an alibi for  
25 Friday. So if he didn't have an alibi for Friday,

1 putting the time of death to Friday makes the case  
2 against him stronger, right?

3 A I would say so.

4 MR. JULIAN: Objection.

5 MR. VENTRONE: Object to the form.

6 BY MR. RICKNER:

7 Q Now -- I'm going to take this down. I'm going  
8 to try to take -- oh. Sorry. I didn't realize it's  
9 only on my screen for reference.

10 Do you recognize the name Susan Stonecipher?

11 A I know the name Stonecipher. I don't remember  
12 Susan Stonecipher. Can you expand on --

13 Q Sure. I -- yeah. Susan Stonecipher initially  
14 stated, I'm just going to represent this to you, that  
15 she saw Ms. Hill on Saturday. Does that refresh your  
16 recollection?

17 A No.

18 Q With respect to the reinvestigation, did you  
19 do -- well, I skipped over a step. My apologies.

20 As part of the reinvestigation, did you re-  
21 interview witnesses?

22 A I'm sure we did.

23 Q And did you conduct those interviews yourself  
24 or were you assisted by other officers or detectives?

25 A Either -- could have been either or both.

1 Q Okay. As you sit here today, do you remember?

2 A Do I remember talking to witnesses or talking  
3 to -- I -- I -- once again, I don't understand your  
4 question.

5 Q What I'm asking is do you remember if you were  
6 the one who handled the investigation entirely yourself  
7 or if you were -- reinvestigation -- or if you were  
8 assisted by other people?

9 A I'm sure I was assisted by other people.

10 Q Now, prior to the indictment, did you discuss  
11 the results of your reinvestigation with DA Fitzpatrick?

12 A Of course. Yes.

13 Q Did you have a meeting at one point where you,  
14 DA Fitzpatrick, and possibly others sat down and  
15 discussed the evidence that you had against Hector  
16 Rivas?

17 A Sure. Yes, sir.

18 Q And do you remember what DA Fitzpatrick said  
19 with respect to the evidence against Hector Rivas when  
20 you sat down to review it?

21 A No. We -- we -- as I recall, and we -- well,  
22 what our normal procedure on something like this is we  
23 set up a little bit of a war room, like we call it, and  
24 it's maybe a designated spot at the DA's office where we  
25 could more control our files and paperwork. And if we



1 had evidence from the police department there, it had to  
2 be in a secure location, and so on and so forth.

3 So -- and I don't know. I can't remember  
4 if -- and it's another, again, I don't know if it  
5 happened in this case, but it's normal for the police  
6 department to then assign a detective to the DA's office  
7 to assist with the investigation. Also, it was normal  
8 for the DA's office to assign a prosecutor to the case  
9 too, which might not just have been Bill Fitzpatrick.  
10 Could have been another prosecutor.

11 Q As part of this re investigation, do you  
12 remember Erik Mitchell reviewing some slides?

13 A I don't remember, but it's -- once again, it's  
14 possible.

15 Q Do you remember Erik Mitchell coming to any  
16 new conclusions with respect to Valerie Hill's murder  
17 during the reinvestigation phase?

18 A Could you -- could you ask the question again  
19 so --

20 Q Sure. During the reinvestigation phase, 1992,  
21 do you remember Erik Mitchell coming to any new  
22 conclusions?

23 A No. I remember that -- that -- like I said  
24 before, that he said that she was dead at least two days  
25 and we knew that -- that she was -- she was -- she

1 wasn't seen after Friday. That would make it three  
2 days. So, do I remember Erik Mitchell saying change of  
3 something? Not particularly. No.

4 Q Do you remember Erik Mitchell saying that he  
5 now had more evidence that it was more likely to be  
6 three days rather than two days?

7 A No.

8 MR. VENTRONE: Object to the form.

9 MR. RICKNER: You can answer.

10 THE WITNESS: I did. I said no, sir. I  
11 don't.

12 BY MR. RICKNER:

13 Q How long do you think this reinvestigation  
14 took overall?

15 A How long did it last? It's -- it's hard to  
16 hear you.

17 Q Oh. I'm sorry. And you may be able to turn  
18 up the volume on the TV, by the way. I don't know if  
19 you have a remote or something. I mean, I can shout  
20 louder.

21 A I'm just saying that -- I think that the  
22 volume is good. I think when you turn away from your  
23 mic or something, it's muffled. That was muffled or  
24 something.

25 Q Oh. I'm sorry. Thank you. It's okay. Now I

1 can't remember.

2 How long did the reinvestigation into the  
3 Valerie Hill murder take?

4 A I don't remember. But I can tell you that  
5 from the time we started looking into it would have  
6 ended probably the time he was indicted.

7 Q So it could have been several months?

8 A I'm sure -- I'm pretty sure it was several  
9 months. Yes.

10 Q Now, are you still with the DA's office?

11 A I am not. I'm retired.

12 Q Congratulations. When did you retire?

13 A From the DA's office?

14 Q Yes.

15 A From the DA's office?

16 Q Yes.

17 A You're nodding. You got to say --

18 Q I said yes.

19 A Okay. I retired from the DA's office. I  
20 believe it was 1999, November.

21 Q Now, you may know from the news or somewhere  
22 else that, you know, Hector Rivas's conviction was  
23 overturned and they started investigating it a third  
24 time. Did you have any part of that third  
25 investigation?

1 A No, sir.

2 Q Between, let's say, 1999 and today, did  
3 anybody ever come and talk to you about the Valerie Hill  
4 murder or the Hector Rivas criminal case and conviction?

5 A Not that I remember. No.

6 Q When was the last time you spoke with William  
7 Fitzpatrick?

8 A I think -- I think it was about two weeks ago  
9 from today.

10 Q What'd you discuss?

11 A He asked me to give Bob Julian a call  
12 regarding this case.

13 Q Did you discuss the case?

14 A No.

15 Q Prior to that conversation, had you ever had  
16 any conversations with -- well, withdrawn.

17 From, let's say, the time that Hector Rivas  
18 was convicted until the present day, is that the only  
19 conversation you've had with DA Fitzpatrick that relates  
20 to Hector Rivas or this case or the Valerie Hill murder?

21 A So, we're talking how many years? No. I have  
22 no idea at all. Nothing that I recall, so.

23 Q Okay. Do you have any reason to believe that  
24 you would have, at any time after your retirement,  
25 discussed this case, the Valerie Hill murder or the

1 Hector Rivas prosecution and conviction with William  
2 Fitzpatrick?

3 A Not that I recall. No.

4 Q When was the last time you spoke with Erik  
5 Mitchell, if you remember?

6 A Erik Mitchell? I can't remember. It was a  
7 long time ago, probably, you know, like 15, 20 years  
8 ago.

9 Q Okay. Now, at some point, the DA's office and  
10 William Fitzpatrick started investigating Erik Mitchell;  
11 is that right?

12 A Yes, sir.

13 Q Were you part of that investigation?

14 A I was.

15 Q Okay. When did you first begin that  
16 investigation?

17 A I think it was the summer of '93.

18 Q And what sparked that investigation?

19 A I think that somebody made a complaint to the  
20 DA's office about an autopsy, an improper autopsy or  
21 something.

22 Q Do you know when that complaint was made?

23 A Do I know when the complaint was made? No. I  
24 don't.

25 Q As of the result of that investigation, did



1 you uncover any conduct that could be illegal with  
2 respect to Dr. Mitchell?

3 A Yes, sir.

4 MR. JULIAN: Object to the form.

5 BY MR. RICKNER:

6 Q What was that?

7 MR. JULIAN: Form.

8 THE WITNESS: What was -- what was the  
9 illegal activity?

10 MR. RICKNER: Yes.

11 THE WITNESS: Well, I can describe some  
12 things, and whether they're illegally -- illegal by the  
13 penal law or improper or not procedural, I'll just  
14 describe them that way. Okay?

15 BY MR. RICKNER:

16 Q Yeah. Please. During your investigation,  
17 what did you uncover about Dr. Mitchell?

18 A Well, there was a complaint that -- we found  
19 that -- we heard -- I guess I heard from some people  
20 working there that they had flushed some body parts down  
21 the drain in the -- the ME's office, and I think the  
22 Department of Environmental Conservation was called in.

23 We heard that he had maybe seized some body  
24 parts, for research or whatever, without the express  
25 permission of family.

1           We heard that he sponsored or conducted  
2   some -- some -- they were like a teaching exercise where  
3   animals were bought and then buried, you know, for  
4   research. And then his office also either sponsored or  
5   had something to do with another exercise on a farm, not  
6   in this county, but that maybe some body parts from the  
7   ME's office were used in that exercise.

8           We -- we had a complaint that a female member  
9   of the ME's office was staging some photos over dead  
10   bodies and had a complaint about that.

11           We had a complaint about somebody who was not  
12   a member of the ME's office actually partaking in actual  
13   parts of a -- of a legitimate autopsy, that somebody --  
14   that some body parts, particularly like a skull or a  
15   spine, were -- were used by the ME's office for display  
16   or research or teaching or whatever, but these  
17   particular body parts were not supposed to be there.  
18   They were supposed to be returned to a grave or returned  
19   to a funeral home or return to a whatever, but -- or he  
20   didn't have permission to have them at all.

21           Yes. I think that that about does it.

22           Q     And based on your investigation, did you find  
23   that these allegations were credible?

24           A     In my opinion, yes.

25           Q     Now, did DA Fitzpatrick ever attempt to

1 prosecute Erik Mitchell based on these allegations?

2 A Did he attempt to prosecute him? I -- you  
3 mean -- I -- no.

4 Q Do you know why Erik Mitchell wasn't  
5 prosecuted as a result of this investigation?

6 A I believe so. Yes.

7 Q Do you know why he wasn't prosecuted?

8 A Do I know why?

9 Q Yes.

10 A I think -- I -- I believe so.

11 Q And what's the reason?

12 A Well, I was present at the office of the  
13 county executive when Erik Mitchell offered his  
14 resignation.

15 Q And tell me what happened at that meeting.

16 A Well, as I recall, we were having a meeting at  
17 the executive -- county executive's office, Nick Pirro.  
18 And Erik Mitchell was going to be there, and Erik  
19 Mitchell's attorney was going to be there, and Mr.  
20 Fitzpatrick was going to be there, and I was there.

21 And I think Mr. Pirro discussed some of the --  
22 I wouldn't say the allegations, but the fallout from any  
23 adverse publicity that might become the medical  
24 examiner's office due to the facts, you know, uncovered  
25 during our investigation. What would it do for public

1 confidence in that office?

2 And Erik Mitchell, I believe, as I recall,  
3 said, "Well, then, would you feel better if I offered my  
4 resignation?" I think Mr. Pirro said yes, he would  
5 accept it.

6 Q Do you remember Erik Mitchell's attorney and  
7 DA Fitzpatrick arguing?

8 A Their -- yes. They had some words. Yes.

9 Q What were they arguing?

10 A I don't remember. I don't remember what they  
11 were arguing about, but I remember that Mr. Cominsky, he  
12 got a little loud -- or -- with Mr. Fitzpatrick, and  
13 then Mr. Fitzpatrick said something to Mr. Cominsky, and  
14 that's the part I remember.

15 Q Do you remember these allegations coming out  
16 earlier in 1993 as part of an investigation by the  
17 county?

18 MR. VENTRONE: Object to the form. Go  
19 ahead.

20 THE WITNESS: I -- I don't, but I  
21 remember that -- I mean, I remember something about  
22 that. Yes. But I don't remember anything specific. I  
23 remember that the county was looking into some other  
24 complaints about the ME's office. And it was in the  
25 newspaper, I believe, so.



1 BY MR. RICKNER:

2 Q Do you remember DA Fitzpatrick ever saying  
3 that he wanted to try to protect Erik Mitchell?

4 A No, sir.

5 Q During the investigation, was Erik Mitchell  
6 still testifying as a witness in criminal prosecutions?

7 A I don't remember, but I'm certain that he was.  
8 I mean, he was the -- he was the ME.

9 Q At any time, did DA Fitzpatrick ever tell you  
10 in sum and substance that his opinion of Erik Mitchell  
11 had changed and that he couldn't rely on him anymore as  
12 a medical examiner?

13 MR. JULIAN: Object to the form.

14 MR. VENTRONE: Yeah. Object to the --

15 MR. RICKNER: You can answer.

16 THE WITNESS: Well, I can -- I can say in  
17 my opinion is I think Mr. Fitzpatrick had the same  
18 opinion of Erik Mitchell that we liked Erik Mitchell.  
19 We thought he was doing a good job.

20 On the other hand, when I presented to  
21 Mr. Fitzpatrick everything that we uncovered at the ME's  
22 office, I think was -- she shared my opinion that  
23 something had to be done because some of the allegations  
24 were so outrageous that -- I go by the old adage that if  
25 it's in the front page of the newspaper the next day,



1 you want to live with that, so.

2 BY MR. RICKNER:

3 Q Would it be correct to say that as a result of  
4 everything that had been uncovered during your  
5 investigation, DA Fitzpatrick was worried know juries,  
6 if they heard it, might not believe Mitchell and he  
7 couldn't get convictions?

8 MR. JULIAN: Object to the form.

9 THE WITNESS: In my opinion, no. That  
10 was -- it was more about the public confidence in the  
11 ME's office and also to -- I mean, to -- to make the  
12 injured people, the relatives or whoever, of -- of the  
13 folks were involved, we wanted to make them feel better  
14 too. We had to make -- make them feel that there was  
15 some consequences for what they went through.

16 BY MR. RICKNER:

17 Q And during this meeting that you described, do  
18 you remember DA Fitzpatrick making any accusations to  
19 Erik Mitchell?

20 A No, sir.

21 Q Do you remember him accusing anything --  
22 withdrawn.

23 Do you remember DA Fitzpatrick accusing Erik  
24 Mitchell of something that ultimately then made his  
25 lawyer angry?

1           A     No. I don't -- I don't recall what made the  
2 lawyer uncomfortable. No.

3           Q     Prior to that meeting with the county  
4 executive, had you had any meetings with DA Fitzpatrick  
5 about your investigation into Erik Mitchell?

6           A     I'm sure I did.

7           Q     During your investigation of Erik Mitchell,  
8 did you keep DA Fitzpatrick informed of everything that  
9 was relevant?

10          A     I'm sure I did.

11                   MR. RICKNER: And -- you know --  
12 withdrawn.

13                   I don't think I have any further  
14 questions actually. Counselor?

15                   MR. JULIAN: No.

16                   MR. VENTRONE: Nothing by me. We're all  
17 set. Thank you.

18                   MR. RICKNER: Do we know if we have the  
19 county attorney yet?

20                   MR. JULIAN: County executive?

21                   MR. VENTRONE: County exec?

22                   MR. RICKNER: Exec.

23                   THE REPORTER: Sorry. Before we go off  
24 record, real briefly, same questions as the first one.  
25 Mr. Tynan, would you like to read and sign the

1 transcript? I think that was brought up at the  
2 beginning.

3 MR. VENTRONE: Let's wait for --

4 MR. RICKNER: Can we wait -- can we wait  
5 until Bob comes back?

6 THE WITNESS: We -- Mr. Rickner, are you  
7 all set with me?

8 MR. VENTRONE: Peter, just have a seat  
9 for a minute.

10 MR. RICKNER: One second. Can you just  
11 go nab Bob for me quickly so we can wrap this up? I  
12 don't want to hold the witness any further.

13 MR. VENTRONE: He's checking to see if  
14 Pirro's here.

15 MR. RICKNER: Okay.

16 THE REPORTER: Want me to take us off  
17 record for a moment?

18 MR. RICKNER: Yeah. One second. Let's  
19 just wait until everybody comes.

20 THE REPORTER: Is that a yes? We're  
21 taking off record? Sorry -- he's back.

22 MR. JULIAN: Not yet. No.

23 MR. VENTRONE: Do we need him to sign?

24 MR. JULIAN: I don't really care.

25 MR. VENTRONE: No. We're good with that,

1 Rob.

2 THE REPORTER: Okay. Mr. Rickner, would  
3 you like to order the original transcript?

4 MR. RICKNER: I am. Yeah. Of course.

5 THE REPORTER: Same question for Mr.  
6 Julian. Would you like to purchase the original -- the  
7 copy of the transcript?

8 MR. JULIAN: Same deal.

9 MR. VENTRONE: Same deal.

10 THE REPORTER: Same deal as before? All  
11 right.

12 MR. VENTRONE: Nothing for me.

13 (Off the record - counsel confer.)

14 THE REPORTER: 1:20 p.m., Eastern Time.  
15 We're going off the record.

16 (Proceedings concluded at 1:20 p.m.)

17 (Read and Sign waived.)

18 \* \* \* \* \*

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

I, Zack Shoup, hereby certify:

That the foregoing proceedings were taken  
before me at the time and place therein set forth;

That the proceedings were recorded by me and  
thereafter formatted into a full, true, and correct  
transcript of same;

I further certify that I am neither counsel  
for nor related to any parties to said action, nor in  
any way interested in the outcome thereof.

DATED, this 9th day of January 2024.

A handwritten signature in black ink, appearing to read 'Zack Shoup', written over a horizontal line.

Zack Shoup, CER-15887

Digital Reporter